

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Noninsured Crop Disaster Assistance
Program for 2001 and Subsequent Years
1-NAP (Revision 1)**

Amendment 37

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Background

Recent program reviews have revealed discrepancies between internal operating guidelines and pertinent regulations governing NAP (7 CFR Parts 718 and 1437). In some circumstances, program operating guidelines may have been unintentionally interpreted to allow NAP payment eligibility for participants who had no valid claim of share of an eligible crop. In some cases, farmers had some or all the risk in growing a crop and possibly exercised control of crop acreage, or the farmer had some other interest in the crop; however, because of a contract growing agreement, the farmer had no valid claim of share of the crop.

In some cases, farmers have entered into contracts with companies or others to grow and produce crops that belong to the company or others. In the event that those contracts preclude the farmer from having any ownership or share interest in the crop, the farmer cannot be considered eligible for NAP. This is simply because NAP does not pay applicants who do not have a valid share in the crop for which NAP assistance is being claimed or sought.

This amendment clarifies, without changing the substance of, underlying program regulations. Regulations have always specified that as a condition of payment eligibility under NAP, participants must have a valid claim to an entitlement share of the crop at the time of loss to have a valid claim to NAP payments.

FSA Offices shall ensure that this policy, as clarified by this amendment, is adhered to for all NAP applications.

Amendment Transmittal (Continued)

B Specific Changes

Subparagraph 6 A has been amended to provide that participants must have share ownership interest in the crop at the time of loss to have a valid claim to a share of NAP payments.

Paragraph 29 has been amended to:

- clarify that anyone who does not have both a share of the risk and valid claim of share ownership of a crop are ineligible for NAP
- provide that the producer must have verifiable evidence of a valid ownership share interest in the commodity grown and control of the crop acreage on which it was grown
- clarify acceptable verifiable evidence when a written lease is not available
- provide that applicants certifying to having a valid claim to a share of NAP payment are subject to spot check, and if determined that they did not have a valid claim NAP payment must be refunded.

Paragraph 506 has been amended to provide that a grower's claimed share of NAP payment cannot exceed the grower's share of risk in producing the crop or actual valid claimed ownership share of the crop.

Page Control Chart		
TC	Text	Exhibit
	1-11, 1-12 2-21, 2-22 8-5	

6 COC Responsibilities (Continued)

A Responsibilities (Continued)

- prevented planting claim is reasonable and justified
- production records presented for the year in which the natural disaster occurred are verified and represent a true and complete record of the production for the unit
- the certified production for approved yield purposes is reasonable
- *--the claimed share reflects the participant's share ownership interest in the crop at the time of loss

Note: If the participant claiming a share of the payment has entered into any agreement or contract to grow or produce the crop for another and without retaining any ownership share interest in the crop, the participant cannot be considered to have a valid claim to a share of NAP payments.--*

- the "person" requesting a payment has certified they have not exceeded the \$2 million gross revenue limitation
- conservation compliance requirements have been met
- total payments issued for claimed losses do not cause a "person" to receive more than \$100,000 under NAP for the crop year.

COC approval of CCC-576:

- Part C, signifies that:
 - applicant provided an acceptable notice of loss according to paragraph 401
 - natural disaster caused damage or loss as claimed
- Part H, signifies that applicant has provided all requisite forms, evidence, and information according to paragraph 502.

Note: The fact that a producer did not suffer a qualifying 50 percent loss to receive a NAP payment will not affect whether COC approves CCC-576, Part H. Applications for payment that will result in zero payment, but meet the above criteria should be approved and processed through the automated system.

6 COC Responsibilities (Continued)

B Publicizing Information

COC shall:

- ensure that NAP provisions are well publicized through the use of newsletters, print media, radio, television, meetings, and any other appropriate means
- maintain an accurate record of all publicity efforts.

COC shall publicize all significant information about the program, including, but not limited to, the following:

- producer and crop eligibility
- conservation compliance requirements
- acreage reporting requirements
- notice of loss requirements
- loss adjustment (appraisal) requirements
- production record requirements
- applicable dates and deadlines
- payment limitations
- gross income limitations.

C Appeals

COC shall ensure that all appeals are handled according to 1-APP.

29 Eligible Producer

A Definition of Producer

[7 CFR 718.2] A producer is an owner, landlord, tenant, or sharecropper who:

- shares in the risk of producing the crop
- is entitled to share in the crop available for marketing from the farm or would have shared had the crop been produced.

***--Note:** Landowners, landlords, tenants, contract growers, or anyone else not having both a share of the risk and a valid claim of share ownership of a crop are ineligible for NAP.--*

B Verifying Producer Eligibility

COC shall take whatever action is necessary to ensure that payments are proper and are for producers suffering the claimed loss of the crop. The producer must be able to show, with ***--verifiable evidence**, that the producer had a valid ownership share interest in the commodity produced and control of the crop acreage on which the commodity was grown at the time**--*** of the disaster, which is the basis for the application for payment. One of the following shall be obtained as determined by COC:

- copies of signed written leases
- copies of signed rental agreements
- copies of other legal documents showing land ownership or control
- statement signed by landowner that producer had control of the acreage
- statement signed by operator or producer that producer had control of the acreage on a farm.

***--Note:** If a written lease is not available as verifiable evidence that a producer had interest in the commodity produced, or had control of the crop acreage where the commodity was grown at the time of natural disaster requiring a signed statement by the operator or producer, other acceptable alternative documentation in lieu of a signed statement may include CCC-578 or producer print, which have the appropriate information (that is, farm tract, field, crop, share) as certified by the operator. If this document is presented as evidence, COC shall review, verify the validity, and document their determination in the COC minutes. This shall be done on a case-by-case basis only when the verifiable evidence listed in this subparagraph are not available. Neither CCC-509 nor CCC-502 are acceptable as verifiable evidence.--*

29 Eligible Producer (Continued)**B Verifying Producer Eligibility (Continued)**

Exception: For Federal- and State-owned leased forage only copies of signed written leases, rental agreements, or other legal documents may be considered. See subparagraph 192 C for additional information on the eligibility of leased acreage intended for grazing.

Leases, rental agreements, and any other written statements documenting verbal agreements shall be reviewed on a case-by-case basis. The review must determine the amount of interest and risk in the production for the lessor and lessee. Apply the specific case circumstances to the determination of eligible producer.

When reviewing case circumstances, evaluate what lease or rental arrangement existed between parties before the natural disaster. The lease or rental arrangement existing before the date of disaster shall be used to determine eligible producer. Any negotiation, agreement, or performance of parties to a rental or lease arrangement after date of disaster shall have no bearing on the question of eligible producer.

--Applicants certifying to having a valid claim to a share of NAP payment are subject to spot check. If agreements or contracts are discovered that show a grower did not have a valid claim to a share of a crop for which NAP assistance was claimed, the NAP payment must be refunded.--

Payment shall be denied if COC is not satisfied that payments claimed by producers are proper.

C Certification by Producers

Producers signing CCC-576:

- Part B, certify to the accuracy of all information contained in CCC-576, items 8 through 20, and acknowledge receipt of a copy of the notice's filing
- Part G, certify and agree to the statement contained in Part G, information provided on the entire form, and apply for payment according to paragraph 502.

30 Highly Erodible Land and Wetland Conservation Compliance**A Producer Requirements**

[7 CFR 1437.15] Producers must comply with the provisions of conservation compliance, according to 6-CP [7 CFR Part 12], to be eligible for NAP payment.

504 Reductions

A NAP Payment Reductions

NAP payments computed according to this handbook shall be reduced for:

- payment limitation (paragraph 34)
- secondary use (subparagraph 174 C)
- salvage value (paragraph 333).

505 Other Benefits

A Multiple Benefit Exclusion

Before approving CCC-576, COC shall review whether the producer has requested or received other USDA benefits for the loss. County Office shall contact the producer and inquire whether the producer has received any other USDA benefit (including but not limited to a GRP indemnity). If so, the producer should be asked to specify what the other USDA benefit was (not the amount, but the kind of benefit). NAP payments shall not be approved if the producer chooses or has received benefits for the loss under any other program administered by the Secretary.

If any person misrepresents facts or circumstances concerning a person's having received another USDA benefit, action according to paragraph 36 may apply.

See paragraph 35 for information on multiple benefits.

506 Determining Shares

A Eligible Producer and Shares

* * *

*--A grower's claimed share of NAP payment cannot exceed both of the following:

- the grower's share of the risk in producing the crop
- the grower's actual valid claimed ownership share of the crop, at time of loss.--*

507-599 (Reserved)

